

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7466

Investigation into Petition filed by Vermont)
Department of Public Service Re: Energy)
Efficiency Utility Structure)

Order entered: 10/8/2008

PREHEARING CONFERENCE MEMORANDUM
AND SCHEDULING ORDER

I. BACKGROUND

On August 28, 2008, the Vermont Department of Public Service ("DPS") filed a petition requesting that the Vermont Public Service Board ("Board") open an investigation, pursuant to 30 V.S.A. §§ 2(c), 209(a), and 218(b), for the purpose of considering a change in the structure of Vermont's Energy Efficiency Utility ("EEU").

On October 1, 2008, the Board held a prehearing conference in this Docket. Appearances were entered by: Jeanne Elias, Esq., on behalf of the Vermont Department of Public Service ("DPS"); William Driscoll, for Associated Industries of Vermont; David Mullett, Esq., for the Vermont Public Power Supply Authority; Jon Aldrich and Janet Doyle, for International Business Machines Corporation ("IBM"); William Ellis, Esq., of McNeil, Leddy and Sheahan, P.C., for the City of Burlington Electric Department; David Halquist, for Vermont Electric Cooperative, Inc.; Blair Hamilton, for Vermont Energy Investment Corporation ("VEIC"); Doug Smith, for Green Mountain Power Corporation; Kim Pritchard and Mark Sciarrotta, for Vermont Electric Power Company, Inc.; Sandra Levine, Esq., for the Conservation Law Foundation ("CLF"); and Morris Silver, Esq., for Central Vermont Public Service Corporation.

II. MOTIONS TO INTERVENE AND MOTIONS PRO HAC VICE

At the prehearing conference, the Board stated that any entity other than the DPS that wished to become a party to this proceeding would need to file a motion to intervene.

CLF and IBM had previously filed Motions to Intervene, on September 24, 2008, and September 25, 2008, respectively. At the prehearing conference, no attendee objected to the motions and the Board granted permissive intervention to CLF and IBM.

On September 25, 2008, IBM also filed a Motion for Admission of Counsel *pro hac vice* of Leonard H. Singer. At the prehearing conference, no attendee objected to the motion and the Board granted the motion.

III. VEIC AND BOARD STAFF PARTICIPATION

At the prehearing conference, the Board raised the issue of VEIC's participation in this proceeding, given that VEIC currently serves under contract to the Board as the Efficiency Vermont provider.¹ The Board recognized that VEIC has operational expertise that would be helpful in this proceeding, but because VEIC is the Board's contractor, there is the potential for confusion about its role. After discussion, we accepted the recommendation of prehearing conference attendees that VEIC file a motion to intervene at the same time as other entities, but that responses to that motion not be due until the conclusion of the period for settlement negotiations discussed below. The attendees expressly agreed that VEIC would participate in the settlement negotiations while its motion to intervene was pending.

The Board also provided prehearing conference attendees an opportunity to comment on whether there would be a conflict of interest if Riley Allen were to participate in this proceeding as a Board staff member. Mr. Allen had participated as a DPS staff member in the Workshop process that led to the development of the Draft Recommendation that is the starting point for this investigation. The Board accepted the prehearing conference attendees' recommendation that written comments on Mr. Allen's participation be filed on the same schedule as motions to intervene.

1. The Board noted that participation options could include party status or amicus status, and that if VEIC were an amicus, the Board could impose limitations on its participation.

IV. SCHEDULE

At the prehearing conference, attendees discussed whether this proceeding should be bifurcated, with the first phase focusing on the issue of whether a change in the EEU structure is warranted. If the Board decides to change the structure, then the docket would proceed to a second phase which would address details associated with the new structure. Prehearing conference attendees agreed that the discussion of bifurcation and resulting schedule should wait until parties had an opportunity to discuss settlement.

At the prehearing conference, attendees proposed a schedule for motions to intervene and for settlement discussions, which we accepted. In addition, we will schedule a status conference during the week of December 14th to consider the establishment of the rest of the schedule based upon the results of the settlement negotiations.

October 10, 2008	Deadline for motions to intervene and comments on Board staff participation
October 15, 2008	Deadline for responses to motions to intervene, except VEIC's motion
December 1, 2008	Stipulation and/or progress report to be filed; if no, or partial, settlement reached, parties to file proposed schedule for the remainder of the proceeding; deadline for responses to motion to intervene by VEIC.
Week of December 15, 2008	Status conference

V. FILING OF DOCUMENTS

In addition to filing an original and six copies, parties should provide an electronic copy of their filings in this docket (e-mail submission to psb.clerk@state.vt.us is acceptable). All filings will be posted on the Board's website at:

www.state.vt.us/psb/document/7466EEUstructure/EEUstructure-main.htm.

The Board has used an extensive EEU e-mail service list for most matters related to the EEU. However, since this is a formal docket, the Board will establish a separate service list for this docket. The Board will notify everyone on the EEU e-mail service list that if they wish, they may request to be an "interested person" in this docket. Interested persons will receive copies of

any documents issued by the Board, but not parties' filings. However, any member of the public will be able to find parties' filings on the Board's website.

SO ORDERED.

Dated at Montpelier, Vermont, this 8th day of October, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: October 8, 2008

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)